

Serial No. 09/786,547

Docket No. 03042-PA

REMARKS

The applicant's representative acknowledges, with appreciation, the interview granted on April 2, 2003 with very short advance notice. During the interview the pending claims were discussed. It was noted that the applicant had filed an Amendment on December 2, 2002 and a Supplemental Amendment on December 12, 2002. The Examiner did not receive the Amendment of December 2, 2002 and, as such, a complete response was not available for the Examiner to consider.

Accordingly, the present Amendment incorporates the missing Amendment and also responds to the Official Action of March 25, 2003.

Claims 15-23 and 26-33 continue to be in the case. /

Claims 24, 25 and 37-44 are being cancelled. /

New claims 34-36 are being introduced.

The drawings were objected to under 37 CFR 1.83(a) because the drawings must show every feature of the invention specified in the claims. The nesting of five suitcases must be shown or the feature(s) cancelled from the claim(s). The present Amendment cancels claim 25 and the feature is deemed to be cancelled from the claim.

The Office Action of September 4, 2002 refers to the specification as failing to provide proper antecedent basis for the claimed subject matter. The Supplemental Amendment of December 12, 2002 submitted FIGS. 7-9 to respond to this objection. Also, the Official Action of September 4, 2002 states that the front and rear faces have no antecedent in the specification. It is submitted that rear face is referred to on page 4, line 10; page 5, lines 5 and 21; page 10, line 2 and FIGS 1, 3a-3c. The front face is disclosed on page 12, lines 1, 17 and 21 and FIGS. 3a-3c.

Serial No. 09/786,547
Docket No. 03042-PA

Claims 26-33 were rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Claim 26 is amended herein by deleting the objectionable language from claim 26.

Claims 15-25 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 25 has been cancelled herein.

Claim 15 has been amended to provide an antecedent basis for all terms.

The objectionable language has been cancelled from claim 26.

In claim 29, it is unclear what element constitutes the central part as set forth.

The specification clearly provides for a central part on page 6, line 2.

The objectionable language has been removed from claim 29.

Claim 30 has been amended to obviate the rejection.

Claim 33 has been amended to provide a clear antecedent basis.

The claims have been reviewed to assure that all elements have an antecedent basis and are in conformity with the requirements of 35 U.S.C. 112, second paragraph.

Claims 15, 16, and 18-21 stand rejected under 35 U.S.C. 102(b) as being anticipated by *Van Himbeek*. *Van Himbeek* teaches a suitcase having two tubes at portions 128 and 160, an opening, and a molded portion having two curved plates 32 and 34.

Serial No. 09/786,547
Docket No. 03042-PA

Applicant observes that *Van Himbeeck* teaches a suitcase having two "rectangular channels" (element 128, compare *Van Himbeeck*, column 8, line 18) or tubular conduits at portions 128 and 160. These are not the tubes according to the present invention and the channels of the reference *Van Himbeeck* are different from the tubes illustrated in the drawings of the applicant. A tube in the context of the present application is unambiguously a self-sustained hollow elongate element, not a rectangular channel or a conduit resulting from a superposition of two plates 124 and 126. Indeed, the *Van Himbeeck* channels are formed by a rigid plate member 124 (which is explicitly excluded from applicant's claim 15: "without rigid peripheral frame") and a stiffener panel 126.

With respect to the limitation "without rigid peripheral frame", the frame in *Van Himbeeck* does not have a "rigid peripheral frame" on the inside of the luggage, and walls 51, 42, 36.

The Office Action asserts further that *Van Himbeeck* teaches retaining rings 166 as shown in FIG. 11.

Applicant respectfully disagrees, *Van Himbeeck* does not teach an elastic retaining ring. It is not understood how the Office Action can equate a single straight rod 166 position at the intersection of front and either a right or left face, to an elastic ring hooping a lateral face consisting of supple material as is required in claim 15 of the instant application. The prior art reference *Van Himbeeck* has to teach within the four corners of the reference what is stated in applicant's claim 15 in order to be applicable to claim 15.

Regarding claim 21, at least the edge of the front portion is not supported by the upper portion of the suitcase as claimed.

Serial No. 09/786,547

Docket No. 03042-PA

It is not understood what connection the observation of the Office Action relative to claim 21 has to the *Van Himbeeck* reference.

Claims 15, 16, 18, 20, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Lin* in view of either *Kish, Jr.* or *Kotkins*. The Office Action states that *Lin* teaches a suitcase having two tubes at portions 72 and 74, an opening, and a molded portion having two curved plates 20 and 22. *Lin* meets all claimed limitations except for the retaining elastic rings.

Lin teaches a rigid frame travel bag having indeed two tubes, an opening and two curved plates 20 and 22. The Examiner states that "*Lin* meets all limitations except for the elastic retaining rings."

This statement is factually not correct. Indeed, applicant requires that there is no "rigid peripheral frame" in the first line of claim 15, and furthermore applicant claims that the faces of the suitcase consist of supple material. In *Lin* only the front face is made of supple material. In *Lin*, there is no need of an "elastic retaining ring" for supporting the lateral faces 12, 14 because the latter faces of *Lin*, in contrast to the present invention, are rigid faces. It should be noted that in *Lin*, the faces 12, 14 are described as "front and rear panels" (col. 2, line 56) because the suitcase is considered "horizontal" while the suitcase of the present invention is considered to be "vertical".

According to the Office Action either *Kish, Jr.* or *Kotkins* teaches that it is known to the art to provide retaining elastic rings 92 and 35 respectively. It would have been obvious to one of ordinary skill in the art to provide retaining rings in *Lin* as taught by either *Kish, Jr.* or *Kotkins* to keep the panels together.

Applicant respectfully disagrees.

Serial No. 09/786,547
Docket No. 03042-PA

Applicant submits that the *Kish, Jr.* reference teaches a horizontal suitcase with a rigid metallic member (frame) 14 and a ring (welt 92 + metal wire) serving to provide rigidity to the exterior periphery of the bag in the reference *Kish, Jr.*, more particularly the larger faces 91, 90, corresponding to the front and rear face of a vertical suitcase. There is no suggestion within the four corners of the references to combine the *Kish, Jr.* ring (not explicitly stated as an elastic ring) with the teaching of *Lin*.

Even with the above failed attempt of combining these references, one still does not arrive at the suitcase of the present invention because *Lin* does not show the other limitations of the present invention (no rigid peripheral frame, no supple side faces).

The Office Action stated that it would have been obvious to one of ordinary skill in the art to provide retaining rings as taught by *Kish, Jr.* to keep the panels together. However, there are no "panels" to be kept together in the present invention, since the present invention employs only supple lateral faces and no panels.

Applicant also submits in regard to the reference *Kotkins* there is described a plastic edge binding strip 35, U-shaped or channeled in cross section (col. 3, lines 11-13). This strip is also "binding" different panels, not retaining a supple structure. These panels 10e-10e, are rigid plastic moldings with peripheral channels (col. 2, lines 30-34). Clearly the binding strip cannot be described as an "elastic retaining ring hooping a lateral face made of a supple material". None of the proposed combinations of the above references would lead to the invention. The Office Action appears to see more in these references than what is actually taught there.

Serial No. 09/786,547
Docket No. 03042-PA

Regarding claims 24 and 25, the Office Action states that *Lin* teaches the nesting one within the other (col. 3, lines 41-43). It would have been obvious to one of ordinary skill in the art to provide at least five suitcases in *Lin* to store additional contents.

The present Amendment cancels claims 24 and 25.

Claims 15-18, 20, 21, 25-29, 31, and 33 stand rejected under 35 U.S.C. 103(a) as being unpatentable over *Myers* (DE19525571) in view of either *Kish, Jr.* or *Kotkins*. According to the Office Action, *Myers* teaches a suitcase having two tubes 108, an opening, and a molded portion having two curved plates 80'. *Myers* meets all claimed limitations except for the retaining elastic rings.

Again, applicant submits that the reference *Myers* does not "meet all claimed limitations except for the retaining elastic (supple) rings." In *Myers*, only the opening face 14 (FIG. 1) is made of supple material, not the lateral faces. Two tubes 108 joining a supporting lower surface portion and an upper surface portion serve to rigidify the suitcase of *Myers*, in combination with two side panels (flatten 66, col. 8, lines 20-25). It is a feature of the present patent application, that the sides are made of supple materials with only an elastic retaining ring 1 supporting each lateral face, and affording elastic deformation of these side or lateral faces. Therefore, starting from *Myers* there is no suggestion within the four corners of the *Myers* reference to provide the "elastic retaining ring" of the present invention, all the more so since there is no need to keep panels together (there are no lateral panels). The panels of *Myers* are not equal to the supple material textile (such as a rectangular piece of fabric) claimed by the applicant.

Serial No. 09/786,547

Docket No. 03042-PA

The Office Action states that either *Kish, Jr.* or *Kotkins* teaches that it is known in the art to provide retaining elastic rings 92 and 35 respectively. It would have been obvious to one of ordinary skill in the art to provide retaining rings in *Myers* as taught by either *Kish, Jr.* or *Kotkins* to keep the panels together.

Regarding claim 21, portions 98 and 72 are the upper and lower portions as claimed, and portion 98 does not support at least a front part of the upper face of the suitcase.

The references *Kish, Jr.* and *Kotkins* were considered above and are respectfully traversed as above.

Regarding claim 31 according to the Office Action, it would have been obvious to one of ordinary skill in the art to make the two plates in *Myers* out of polyethylene sheet to manufacture the luggage easily.

No suggestion is seen in the reference *Myers* as to any polyethylene sheet to be employed in connection with producing a suitcase.

Claim 23 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Van Himbeek* in view of *King*. *Van Himbeek* meets all claimed limitations except for the parts that are attached by rivets. *King* teaches that it is known in the art to attach parts of a luggage by rivets. It would have been obvious to one of ordinary skill in the art to attach parts of a luggage by rivets in *Van Himbeek* as taught by *King* to fasten the parts easily.

As the materials used in construction of the suitcase of *Van Himbeek* and of the present application, a person of ordinary skill in the art would clearly use the attachment means proposed by

Serial No. 09/786,547
Docket No. 03042-PA

Van Himbeeck for a construction inspired by *Van Himbeeck* and not look for extraneous methods of attachment.

Claim 33 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Myers* rejection as set forth in paragraph 8, and further in view of *King*. The *Myers* combinations meet all claimed limitations except for the parts that are attached by rivets. *King* teaches that it is known in the art to attach parts of a luggage by rivets. It would have been obvious to one of ordinary skill in the art to attach parts of a luggage by rivets in the *Myers* combinations as taught by *King* to fasten the parts easily.

Applicant refers to the statement made in connection with claim 23 and explaining, that a person of ordinary skill in the art inspired by *Van Himbeeck* would use attachment methods taught by *Van Himbeeck* and not attachment methods of third parties.

Applicant submits that the prior art made of record neither anticipates nor renders obvious the present invention.

It appears that all matters have been addressed satisfactorily, and that the case is now in condition for a complete allowance; and the same is respectfully urged.

However, if the Examiner has any comments or questions, or has any suggestions as per MPEP 707.07 (d) and (j), for putting the case in condition for final allowance, he is respectfully

Serial No. 09/786,547

Docket No. 03042-PA

urged to contact the undersigned attorney-of-record at the telephone number below, so that an expeditious resolution may be effected and the case passed to issue promptly.

Respectfully submitted,

April 22, 2003
Date



Robert M. Gamson
Reg. No. 32,986
Attorney for Applicant

CERTIFICATE OF TRANSMITTAL

I hereby certify that this correspondence, consisting of 17 pages, is being transmitted via facsimile to the U.S. Patent and Trademark Office, P.O. Box 2327, Arlington, VA 22202.

Date: April 22, 2003

Fax No. 703-305-3579

By: 

ARMSTRONG, WESTERMAN & HATTORI, LLP
502 Washington Avenue, Suite 220
Towson, MD 21204
Telephone: (410) 337-2295
Facsimile: (410) 337-2296

RMG/chb

C:\Core\Office7\WPWin7\Carolyn\amend\03042amd.wpd